

PREVAILED

Roll Call No. _____

FAILED

Ayes _____

WITHDRAWN

Noes _____

RULED OUT OF ORDER

HOUSE MOTION _____

MR. SPEAKER:

I move that House Bill 1001 be amended to read as follows:

1	Page 107, between lines 11 and 12, begin a new paragraph and
2	insert:
3	"SECTION 62. IC 6-2.5-2-2, AS AMENDED BY P.L.146-2008,
4	SECTION 310, IS AMENDED TO READ AS FOLLOWS
5	[EFFECTIVE JULY 1, 2009]: Sec. 2. (a) The state gross retail tax is
6	measured by the gross retail income received by a retail merchant in a
7	retail unitary transaction and is imposed at the following rates:
8	STATE GROSS RETAIL INCOME
9	GROSS FROM THE
10	RETAIL RETAIL UNITARY
11	TAX TRANSACTION
12	\$ 0 less than \$0.08
13	\$ 0.01 at least \$ 0.08 but less than \$0.21
14	\$ 0.02 at least \$ 0.21 but less than \$0.36
15	\$ 0.03 at least \$ 0.36 but less than \$0.51
16	\$ 0.04 at least \$ 0.51 but less than \$0.64
17	\$ 0.05 at least \$ 0.64 but less than \$0.79
18	\$ 0.06 at least \$ 0.79 but less than \$0.93
19	\$ 0.07 at least \$ 0.93 but less than \$1.07
20	STATE GROSS RETAIL INCOME
21	GROSS FROM THE
22	RETAIL RETAIL UNITARY
23	TAX TRANSACTION
24	\$ 0 less than \$0.09

1 **\$ 0.01** at least **\$ 0.09** but less than **\$0.25**
 2 **\$ 0.02** at least **\$ 0.25** but less than **\$0.42**
 3 **\$ 0.03** at least **\$ 0.42** but less than **\$0.59**
 4 **\$ 0.04** at least **\$ 0.59** but less than **\$0.75**
 5 **\$ 0.05** at least **\$ 0.75** but less than **\$0.92**
 6 **\$ 0.06** at least **\$ 0.92** but less than **\$1.09**
 7 On a retail unitary transaction in which the gross retail income received
 8 by the retail merchant is one dollar and ~~seven nine~~ cents (~~\$1.07~~)
 9 (**\$1.09**) or more, the state gross retail tax is ~~seven six~~ percent (~~7%~~)
 10 (**6%**) of that gross retail income.
 11 (b) If the tax computed under subsection (a) results in a fraction of
 12 one-half cent (\$0.005) or more, the amount of the tax shall be rounded
 13 to the next additional cent.
 14 SECTION 63. IC 6-2.5-6-7, AS AMENDED BY P.L.146-2008,
 15 SECTION 311, IS AMENDED TO READ AS FOLLOWS
 16 [EFFECTIVE JULY 1, 2009]: Sec. 7. Except as otherwise provided in
 17 IC 6-2.5-7 or in this chapter, a retail merchant shall pay to the
 18 department, for a particular reporting period, an amount equal to the
 19 product of:
 20 (1) ~~seven six~~ percent (~~7%~~); (**6%**); multiplied by
 21 (2) the retail merchant's total gross retail income from taxable
 22 transactions made during the reporting period.
 23 The amount determined under this section is the retail merchant's state
 24 gross retail and use tax liability regardless of the amount of tax the
 25 retail merchant actually collects.
 26 SECTION 64. IC 6-2.5-6-8, AS AMENDED BY P.L.146-2008,
 27 SECTION 312, IS AMENDED TO READ AS FOLLOWS
 28 [EFFECTIVE JULY 1, 2009]: Sec. 8. (a) For purposes of determining
 29 the amount of state gross retail and use taxes which a retail merchant
 30 must remit under section 7 of this chapter, the retail merchant may
 31 exclude from the retail merchant's gross retail income from retail
 32 transactions made during a particular reporting period, an amount equal
 33 to the product of:
 34 (1) the amount of that gross retail income; multiplied by
 35 (2) the retail merchant's "income exclusion ratio" for the tax year
 36 which contains the reporting period.
 37 (b) A retail merchant's "income exclusion ratio" for a particular tax
 38 year equals a fraction, the numerator of which is the retail merchant's
 39 estimated total gross retail income for the tax year from unitary retail
 40 transactions which produce gross retail income of less than ~~eight nine~~
 41 cents (~~\$0.08~~) (**\$0.09**) each, and the denominator of which is the retail
 42 merchant's estimated total gross retail income for the tax year from all
 43 retail transactions.
 44 (c) In order to minimize a retail merchant's recordkeeping
 45 requirements, the department shall prescribe a procedure for
 46 determining the retail merchant's income exclusion ratio for a tax year,

based on a period of time, not to exceed fifteen (15) consecutive days, during the first quarter of the retail merchant's tax year. However, the period of time may be changed if the change is requested by the retail merchant because of the retail merchant's peculiar accounting procedures or marketing factors. In addition, if a retail merchant has multiple sales locations or diverse types of sales, the department shall permit the retail merchant to determine the ratio on the basis of a representative sampling of the locations and types of sales.

SECTION 65. IC 6-2.5-6-10, AS AMENDED BY P.L.146-2008, SECTION 313, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 10. (a) In order to compensate retail merchants for collecting and timely remitting the state gross retail tax and the state use tax, every retail merchant, except a retail merchant referred to in subsection (c), is entitled to deduct and retain from the amount of those taxes otherwise required to be remitted under IC 6-2.5-7-5 or under this chapter, if timely remitted, a retail merchant's collection allowance.

(b) The allowance equals a percentage of the retail merchant's state gross retail and use tax liability accrued during a calendar year, specified as follows:

(1) ~~Seventy-three~~ **Eighty-three** hundredths percent ~~(0.73%)~~, **(0.83%)**, if the retail merchant's state gross retail and use tax liability accrued during the state fiscal year ending on June 30 of the immediately preceding calendar year did not exceed sixty thousand dollars (\$60,000).

(2) ~~Fifty-three hundredths~~ **Six-tenths** percent ~~(0.53%)~~, **(0.6%)**, if the retail merchant's state gross retail and use tax liability accrued during the state fiscal year ending on June 30 of the immediately preceding calendar year:

(A) was greater than sixty thousand dollars (\$60,000); and

(B) did not exceed six hundred thousand dollars (\$600,000).

(3) ~~Twenty-six hundredths~~ **Three-tenths** percent ~~(0.26%)~~, **(0.3%)**, if the retail merchant's state gross retail and use tax liability accrued during the state fiscal year ending on June 30 of the immediately preceding calendar year was greater than six hundred thousand dollars (\$600,000).

(c) A retail merchant described in IC 6-2.5-4-5 or IC 6-2.5-4-6 is not entitled to the allowance provided by this section.

SECTION 66. IC 6-2.5-7-3, AS AMENDED BY P.L.146-2008, SECTION 314, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 3. (a) With respect to the sale of gasoline which is dispensed from a metered pump, a retail merchant shall collect, for each unit of gasoline sold, state gross retail tax in an amount equal to the product, rounded to the nearest one-tenth of one cent (\$0.001), of:

(1) the price per unit before the addition of state and federal taxes;

multiplied by

(2) ~~seven six~~ percent ~~(7%)~~: (6%).

The retail merchant shall collect the state gross retail tax prescribed in this section even if the transaction is exempt from taxation under IC 6-2.5-5.

(b) With respect to the sale of special fuel or kerosene which is dispensed from a metered pump, unless the purchaser provides an exemption certificate in accordance with IC 6-2.5-8-8, a retail merchant shall collect, for each unit of special fuel or kerosene sold, state gross retail tax in an amount equal to the product, rounded to the nearest one-tenth of one cent (\$0.001), of:

(1) the price per unit before the addition of state and federal taxes; multiplied by

(2) ~~seven six~~ percent ~~(7%)~~: (6%).

Unless the exemption certificate is provided, the retail merchant shall collect the state gross retail tax prescribed in this section even if the transaction is exempt from taxation under IC 6-2.5-5.

SECTION 67. IC 6-2.5-7-5, AS AMENDED BY P.L.146-2008, SECTION 315, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 5. (a) Each retail merchant who dispenses gasoline or special fuel from a metered pump shall, in the manner prescribed in IC 6-2.5-6, report to the department the following information:

(1) The total number of gallons of gasoline sold from a metered pump during the period covered by the report.

(2) The total amount of money received from the sale of gasoline described in subdivision (1) during the period covered by the report.

(3) That portion of the amount described in subdivision (2) which represents state and federal taxes imposed under this article, IC 6-6-1.1, or Section 4081 of the Internal Revenue Code.

(4) The total number of gallons of special fuel sold from a metered pump during the period covered by the report.

(5) The total amount of money received from the sale of special fuel during the period covered by the report.

(6) That portion of the amount described in subdivision (5) that represents state and federal taxes imposed under this article, IC 6-6-2.5, or Section 4041 of the Internal Revenue Code.

(7) The total number of gallons of E85 sold from a metered pump during the period covered by the report.

(b) Concurrently with filing the report, the retail merchant shall remit the state gross retail tax in an amount which equals ~~six and fifty-four five and sixty-six~~ hundredths percent ~~(6.54%)~~ (5.66%) of the gross receipts, including state gross retail taxes but excluding Indiana and federal gasoline and special fuel taxes, received by the retail merchant from the sale of the gasoline and special fuel that is covered

by the report and on which the retail merchant was required to collect state gross retail tax. The retail merchant shall remit that amount regardless of the amount of state gross retail tax which the merchant has actually collected under this chapter. However, the retail merchant is entitled to deduct and retain the amounts prescribed in subsection (c), IC 6-2.5-6-10, and IC 6-2.5-6-11.

(c) A retail merchant is entitled to deduct from the amount of state gross retail tax required to be remitted under subsection (b) the amount determined under STEP THREE of the following formula:

STEP ONE: Determine:

(A) the sum of the prepayment amounts made during the period covered by the retail merchant's report; minus

(B) the sum of prepayment amounts collected by the retail merchant, in the merchant's capacity as a qualified distributor, during the period covered by the retail merchant's report.

STEP TWO: Subject to subsection (d), for reporting periods ending before July 1, 2020, determine the product of:

(A) eighteen cents (\$0.18); multiplied by

(B) the number of gallons of E85 sold at retail by the retail merchant during the period covered by the retail merchant's report.

STEP THREE: Add the amounts determined under STEPS ONE and TWO.

For purposes of this section, a prepayment of the gross retail tax is presumed to occur on the date on which it is invoiced.

(d) The total amount of deductions allowed under subsection (c) STEP TWO may not exceed one million dollars (\$1,000,000) for all retail merchants in all reporting periods. A retail merchant is not required to apply for an allocation of deductions under subsection (c) STEP TWO. If the department determines that the sum of:

(1) the deductions that would otherwise be reported under subsection (c) STEP TWO for a reporting period; plus

(2) the total amount of deductions granted under subsection (c) STEP TWO in all preceding reporting periods;

will exceed one million dollars (\$1,000,000), the department shall publish in the Indiana Register a notice that the deduction program under subsection (c) STEP TWO is terminated after the date specified in the notice and that no additional deductions will be granted for retail transactions occurring after the date specified in the notice.

SECTION 68. IC 6-2.5-10-1, AS AMENDED BY P.L.146-2008, SECTION 317, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1. (a) The department shall account for all state gross retail and use taxes that it collects.

(b) The department shall deposit those collections in the following manner:

(1) Ninety-nine and ~~one hundred seventy-eight~~ **sixty-seven**

1 thousandths percent (~~99.178%~~) **(99.067%)** of the collections shall
 2 be paid into the state general fund.

3 (2) ~~Sixty-seven~~ **Seventy-six** hundredths of one percent (~~0.67%~~)
 4 **(0.76%)** of the collections shall be paid into the public mass
 5 transportation fund established by IC 8-23-3-8.

6 (3) ~~Twenty-nine~~ **Thirty-three** thousandths of one percent
 7 (~~0.029%~~) **(0.033%)** of the collections shall be deposited into the
 8 industrial rail service fund established under IC 8-3-1.7-2.

9 (4) ~~One hundred twenty-three thousandths~~ **Fourteen hundredths**
 10 of one percent (~~0.123%~~) **(0.14%)** of the collections shall be
 11 deposited into the commuter rail service fund established under
 12 IC 8-3-1.5-20.5".

13 Page 113, between lines 37 and 38, begin a new paragraph and
 14 insert the following:

15 "SECTION 91. [EFFECTIVE JULY 1, 2009] (a) **For purposes of**
 16 **IC 6-2.5, as amended by this act, all transactions, except the**
 17 **furnishing of public utility, telephone, or cable television services**
 18 **and commodities by retail merchants described in IC 6-2.5-4-5,**
 19 **IC 6-2.5-4-6, and IC 6-2.5-4-11 shall be considered as having**
 20 **occurred after June 30, 2009, to the extent that delivery of the**
 21 **property or services constituting selling at retail is made after that**
 22 **date to the purchaser or to the place of delivery designated by the**
 23 **purchaser. However, a transaction shall be considered as having**
 24 **occurred before July 1, 2009, to the extent that the agreement of**
 25 **the parties to the transaction is entered into before July 1, 2009,**
 26 **and payment for the property or services furnished in the**
 27 **transaction is made before July 1, 2009, notwithstanding the**
 28 **delivery of the property or services after June 30, 2009.**

29 (b) **With respect to a transaction constituting the furnishing of**
 30 **public utility, telephone, or cable television services and**
 31 **commodities, only transactions for which the charges are collected**
 32 **on original statements and billings dated after July 31, 2009, shall**
 33 **be considered as having occurred after June 30, 2009.**

34 (c) **This SECTION expires July 1, 2010."**

35 Renumber all SECTIONS consecutively.

(Reference is to HB 1001 as printed February 17, 2009.)

Representative Walorski